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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,045	04/08/2004	Marc Alan Dickenson	AUS920031077US1	9663

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EXAMINER
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BONZO, BRYCE P

ART UNIT	PAPER NUMBER
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2113

MAIL DATE	DELIVERY MODE
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05/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/821,045

**Applicant(s)**

DICKENSON ET AL.

**Examiner**

Bryce P. Bonzo

**Art Unit**

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/8/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **Final Official Action**

### ***Status of the Claims***

Claims 8-14 and 20-22 are rejected under 35 USC §101.

Claims 1-4, 6, 15, 18-22 are rejected under 35 USC §102.

Claims 5, 8-10, 16 and 17 are rejected under 35 USC §103.

Claims 7-14 are objected to while containing allowable subject matter.

### ***Rejections under 35 USC §101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7-14 and 20-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims encompass transmission type media, which does not qualify the claim for statutory class.

### ***Rejections under 35 USC §102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 15, 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Lautenbach-Lampe (United States Patent No. 6,279,120 B1).

As per the claims:

1. A method of generating a data dump in a data processing system, the method comprising the computer implemented steps of:

initializing a system boot of the data processing system (column 4, lines 5-21);

executing a firmware that includes first failure data capture logic (column 4, lines 5-21);

conditionally creating a data dump in a persistent storage of the data processing system by the firmware based upon a type of reset that caused the system boot (column 4, lines 5-21; column 1, lines 65 through column 2, line 18), wherein the data dump is created if the type reset is at least one of a unit check reset, kernel panic reset and a host-initiated reset (column 4, lines 50-52).

2. The method of claim 1, further comprising: restarting an operating system kernel responsive to creating the data dump (column 4, lines 18-21).

3. A method of generating a data dump in a data processing system, the method comprising the computer implemented steps of:

detecting a fault condition of the data processing system (column 3, lines 43 through column 4, lines 21);

determining if the data processing system is in a recoverable state (inherent as rebooting is a the result of the operations at column 1, lines 6-44);

executing a firmware that includes first failure data capture logic (column 4, lines 5-21; column 1, lines 65 through column 2, line 18); and

creating a data dump in persistent storage of the data processing system by firmware if was determined that the data processing system is not in a recoverable state, otherwise continue execution of the firmware to initialize hardware of the data processing system without creating the data dump (column 4, lines 5-21; column 1, lines 65 through column 2, line 18).

4. The method of claim 1, wherein executing a firmware further includes executing first failure data collection logic responsive to initializing the system boot (column 4, lines 18-21).

15. A data processing system for generating a data dump in response to detection of a fault condition, comprising:

a storage device that contains a logic as a set of instructions for generating a data dump and a second set of instructions for performing an initial program load used to initialize hardware of the processing system (column 4, lines 5-21; column 2, lines 65 through column 2, line 18); and

a processing unit, responsive to execution of the set of instructions, for evaluating a reset type of the data processing system (column 3, lines 43 through

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column 4, lines 36) and, responsive to evaluating the reset type, generating a dump during a boot of the data processing system (column 4 in its entirety). and writing the dump to the storage device (column 5, lines 35-40).

18. The data processing system of claim 15, wherein execution of the set of instructions is performed responsive to identifying a system fault as one of a plurality of boot dump collection reset types (column 3, lines 43 through column 4, lines 36).

19. The data processing system of claim 15, wherein execution of the set of instructions is performed responsive to determining that a fault condition detected in the data processing system is not recoverable (column 1, line 43 through column 2, line 42).

20. A computer program product encoded in a computer readable medium and operable for generating a data dump in a data processing system when executed by the data processing system, the computer program product comprising:

first instructions for collecting first failure data capture information in a storage device when the data processing system experiences a recoverable error (column 4, lines 50-56);

second instructions for collecting first failure data capture information in the storage device when a service processor remains in a serviceable state after the data processing system experiences an unrecoverable error (column 4, lines 5-21); and

third instructions implemented as firmware for collecting first failure data capture information in the storage device during boot of a service processor when the data processing system experiences an unrecoverable error (column 4, lines 5-21).

21. The computer program product of claim 20, further comprising: fourth instructions that evaluate a system error as one of a plurality of reset types (see Figure 1).

22. The computer program product of claim 21, wherein the plurality of reset types include a unit check reset, a kernel panic reset, and a host initiated reset (column 3, lines 43 through column 4, line 4).

### ***Rejections under 35 USC §103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenbach-Lampe (United States Patent No. 6,279,120 B1).

As, per claim 5, Lautenbach-Lampe does not explicitly disclose:

wherein creating a data dump is performed responsive to determining that a valid data dump does not exist in the persistent storage.

Official Notice is given that in the computer arts, it is notoriously well known to create a file when a needed file does not exist. In computer systems, memory must be portioned so that it may be later accessed. With out this allocation, and creating of files when they do not already exist, no new data can be stored in a manner in which it can be found again. Thus it would have been obvious to one of ordinary skill in the art of computer design to explicitly provide for the creating of dump files in Lautenbach-Lampe in order allow the saving of dump data to allow for later debugging.

As per claim 16, Lautenbach-Lampe does not explicitly disclose:

wherein the storage device is a flash memory, and the dump is written to the flash memory.

Official Notice is given that it is notoriously well known to store system dump information to flash memory devices. Flash offers the well known benefits of small physical size, high access speeds and non-volatile properties that are essential memory dumping. Thus it would have been obvious to one of ordinary skill in that art at the time of invention to implement the disk drive storage of Lautenbach-Lampe as a flash memory thus allowing small and faster access times for the large amounts of data needed to be transferred from system memory for later diagnostic use.

As per claim 17, Lautenbach-Lampe does not explicitly disclose:



wherein the storage device is disposed on a subsystem module that is removable from the data processing system.

Lautenbach-Lampe does disclose the use of both disk drives (which while not inherently removable from computer systems, generally are removable) and transmission of the dump file off the computer system via communication channels. Official Notice is given that it is notoriously well known to use removable flash memory in system where data needs to be removed for later use or use at a separate location. Removable flash memory is often used to move data from devices which are unable to handle processing either by design or fault, such as moving the large amount of data out of a digital camera. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to implement the data transfer out of the processing system of Lautenbach-Lampe via removable flash as opposed disk drive or transmission media, creating a smaller or more secure transfer mechanism.

#### ***Allowable Subject Matter***

Claims 7-14 are rejected under 35 USC §101, which prevents an indication of allowability, however there claims meet all other statutory requirements.

#### ***Response to Applicant's Amendments***

First Applicant vehemently argues the rejection under 35 USC §101. Applicant provides copious amounts of case law out of context, and further cites portions of the

MPEP which have been removed. Applicant has clearly not reviewed the new Interim Guidelines published in part in MPEP v8 r5 (August 2006) or published in total at <http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm> . Applicant assertions that the invention encompasses transmission media make it clear Applicant is directly seeking clearly established non-patentable subject matter, and the relieves the Examiner of any obligation to assist in seeking a patent on this matter. Applicant is clearly stalling the prosecution of their own Application.

Second, Applicant argues the merits of rejections under 35 USC §112. This claim is now allowed upon Applicant correcting the clear deficiencies of the original claim.

Third, Applicant argues the merits of rejections under 35 USC §102. The rejection as been clarified to particularly point out the conditional nature of the data recovery system. Despite Applicant's assertions in the arguments, the claims as written only require the conditional creation of dump file WHEN and IF there is a unit check reset, kernel panic, or host-initiated reset. Applicant's arguments describe a situation not limited in the claims.

Applicant argues that claim 15 is not present in the prior art. The rejection has been clarified showing these items in the prior art.

Applicant continues to argue claim 20, then argues the location of the storage while the prior art clearly contemplates the holding of the data while awaiting the ability to transmit it off device.

Finally, Applicant argues the rejections under 35 USC §103. These arguments are either now drawn to claims no longer rejected under the prior art, the arguments is solely based on a deficiency in the rejection under 35 USC §102 and need no further explanation.

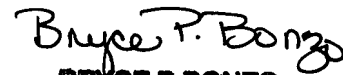
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryce P. Bonzo whose telephone number is (571)272-3655. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
**BRYCE P. BONZO**  
**PRIMARY EXAMINER**